

COPY

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

THE BURLINGTON NORTHERN AND SANTA FE
RAILWAY COMPANY; CARROLL COUNTY,
ILLINOIS; ELKHORN GROVE TOWNSHIP,
CARROLL COUNTY, ILLINOIS; and ELKHORN
GROVE ROAD DISTRICT, CARROLL COUNTY,
ILLINOIS,

Petitioners,

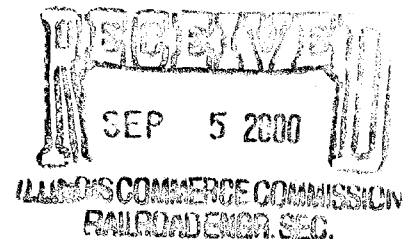
v.

STATE OF ILLINOIS, DEPARTMENT OF
TRANSPORTATION,

Respondent.

T 00 - 0089

Petition for an order from the
Illinois Commerce Commission authorizing
the reopening of the at grade crossing
located at the tracks of The Burlington
Northern and Santa Fe Railway Company
("BNSF") and Grandview Road (TR 198),
Milepost 118.88, DOT No. 069 857G;
Authorize the construction of a grade
separation at the intersection of the
track of BNSF and Grandview Road
(TR 198), Milepost 118.88, DOT No. 069
857G; authorize the reconstruction of
the grade separation structure located
at the track of BNSF and Sunshine Road
(TR 199), Milepost 119.63, DOT No. 069
861W; order the permanent closure of
the grade separation located at track
of BNSF and Goose Rd. (TR 193A),
Milepost 118.40, DOT No. 069 855T; with
any such cost to be borne by the parties
in accordance with law and that a
substantial portion of the cost be
borne by the Grade Crossing Protection
Fund.



JOINT PETITION

Now comes joint petitioners, The Burlington Northern and Santa Fe Railway Company ("BNSF"), by its attorneys, Kenneth J. Wysoglad & Associates, Elkhorn Grove Township and Elkhorn Grove Road District, Carroll County, Illinois and Carroll County, Illinois and for their joint petition to the Illinois Commerce Commission states as follows:

DOCKETED

1. BNSF is a Delaware corporation with its principal place of business in Ft. Worth, Texas and is authorized to transact business in the State of Illinois and transact business as a common carrier by railroad in interstate and intrastate commerce.

2. BNSF operates its main line track in a generally east to west direction through Elkhorn Grove Township, Carroll County, Illinois.

3. Within Elkhorn Grove Township and under the jurisdiction of Elkhorn Grove Road District are three north-south roadways which intersect with the trackage of BNSF. From an east to west direction the three township roadways are identified as follows: Goose Road (TR 193A), Milepost 118.40; Grandview Road (TR 198), Milepost 118.88, DOT No. 069 857G; and Sunshine Road (TR 199), Milepost 119.63, DOT No.069 861W.

4. At Goose Road (TR 193A), Milepost 118.40, DOT No.069 855T, there exists a grade separation carrying said Township Road over the trackage of BNSF. Said grade separation, by virtue of its age and configuration is not capable of being utilized by heavy trucks and large farm equipment.

5. At Grandview Road (TR 198), DOT No. 118.88, DOT No. 069 857G there exists an at grade crossing equipped with standard reflectorized crossbuck signs.

6. At Sunshine Road (TR 199), Milepost 119.63, DOT No. 069 861W, there exists a grade separation structure carrying Sunshine Road over the trackage of BNSF. Due to the grade separation age and configuration said grade separation cannot be utilized by heavy trucks and large farm equipment.

7. On or about February 5, 1957 the Illinois Commerce Commission issued its order in the cause styled Chicago, Burlington and Quincy Railroad Company v. Carroll County and Elkhorn Grove Township, Carroll County, Illinois, Docket No. 43636 (Exhibit A attached).

8. In its order entered in Docket 43636, the Illinois Commerce Commission ordered, inter alia, that the at grade crossing at the trackage of BNSF and Grandview Road (TR 198), Milepost 118.88, DOT No. 069 857G be permanently closed and barricaded. (Exhibit A, pp. 4, 6, and 7).

9. On information and belief, the at grade crossing at Grandview Road and the trackage of BNSF was closed in accordance with the terms of the order entered by the Illinois Commerce Commission in Docket 43636. However, at an unknown later date and under unknown circumstances the Grandview Road at grade crossing was reopened. Ostensibly, the Grandview Road at grade crossing was reopened to accommodate heavy trucks and oversized farm equipment that could not traverse the overpass grade separation structures located at Goose Road (TR 193A), Milepost 118.40 and Sunshine Road (TR 199), Milepost 119.63.

10. It is the position of the joint petitioners herein that the Grandview Road at grade crossing should be formally reopened as a public at grade crossing and remain open as an at grade crossing until such time as design and engineering plans and cost estimates are developed for the construction of an overpass grade separation structure at the Grandview Road at grade crossing location. The joint petitioners are of the opinion that upon completion of the Grandview Road grade separation construction project, the grade

separation at Goose Road, Milepost 118.40 will no longer be required by the traveling public and should be permanently closed, the structure removed and the approaches barricaded. Finally, the joint petitioners are further of the view that the overpass grade separation structure at Sunshine Road should be rehabilitated and/or reconstructed after completion of construction of the Grandview Road grade separation structure.

11. That Grandview Road and Sunshine Road in the area of BNSF's trackage, including the crossings thereat are used by statewide vehicular traffic.

12. Public safety, convenience and necessity requires that the Grade Crossing Protection Fund of the Motor Fuel Tax Law pay a substantial portion of the cost of any improvements that may be authorized by the Illinois Commerce Commission pursuant to this joint petition.

Wherefore, joint petitioners pray that the Illinois Commerce Commission set the aforesaid matter for public hearing and enter an order authorizing:

- a. The reopening of the at grade crossing at Grandview Road (TR 198) and the trackage of BNSF at Milepost 118.88, DOT No. 069 857G as a public at grade crossing to be equipped with standard reflectorized crossbuck signs;
- b. The construction of a grade separation overpass at the intersection of Grandview Road (TR 198) and the trackage of BNSF at Milepost 118.88, DOT No. 069 857G;
- c. Permanent closure of the grade separation structure at

Goose Road (TR 193A), Milepost 118.40, DOT No.069 855T, to be permanently closed and barricaded upon completion of the construction of the Grandview Road overpass structure;

- d. The rehabilitation and/or reconstruction of the grade separation overpass at Sunshine Road (TR 198) and the trackage of BNSF at Milepost 119.69, DOT No. 069 861W, upon completion of the Grandview Road overpass construction project; and
- e. Dividing the cost among the parties in accordance with law and requiring a substantial portion of the cost be borne by the Grade Crossing Protection Fund of the Motor Fuel Tax Law.

The Burlington Northern and Santa Fe
Railway Company

By: Charles J. Jankha
Elkhorn Grove Township

By: Wm. C. Peterson
Carroll County, Illinois

By: Keith E. Cook
Elkhorn Grove Road District

By: Ivan F. Miller

Michael L. Sazdanoff
Kenneth J. Wysoglad & Associates
Attorneys for Petitioner
The Burlington Northern and Santa Fe Railway Company
118 S. Clinton Street, Suite 700
Chicago, Illinois 60661
(312) 441-0333

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Chicago, Burlington & Quincy	:	
Railroad Company	:	
-vs-	:	
Carroll County and Elkhorn Grove	:	
Township, Carroll County, Illinois	:	
	:	43636
Petition for an Order for apportion-	:	
ment of cost for the reconstruction	:	
of an overhead highway bridge or the	:	
abandonment thereof, in Elkhorn Grove	:	
Township, Carroll County, Illinois.	:	

O R D E R

By the Commission:

On September 21, 1956, the Chicago, Burlington & Quincy Railroad Company filed its petition with the Commission for the apportionment of cost for the reconstruction of an overhead highway bridge known as Bridge 119.63 extending over and above its tracks in Elkhorn Grove Township between Hazelhurst and Milledgeville, Carroll County, Illinois, or for authority to abandon same, the location being shown in red on a certain photostatic print attached to the said petition and made a part thereof. The petition alleges, among other things, that the said bridge is in need of reconstruction and now is restricted to a load limit of four tons.

Pursuant to notice as required by law and by the rules and regulations of the Commission, a hearing was held before a duly authorized examiner at the offices of the Commission in Chicago, Illinois on October 23, 1956. The Chicago, Burlington & Quincy Railroad Company, petitioner herein, Carroll County and Elkhorn Grove Township were duly represented by counsel. Evidence was introduced at the said hearing, both oral and documentary, by the parties in interest. At the conclusion of the hearing the case was marked "Heard and Taken".

The Commission, having given due consideration to the petition, to the evidence introduced at the hearing, both oral and documentary, and being fully advised in the premises, is of the opinion and finds:-

Exhibit A

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- (1) that the Chicago, Burlington & Quincy Railroad Company is a corporation engaged in the transportation of passengers and goods for hire in the State of Illinois and, as such, is a public utility as defined in Section 10 of "An Act concerning public utilities," as amended;
- (2) that the Commission has jurisdiction over the subject matter of this proceeding;
- ~~(3) that the Chicago, Burlington & Quincy Railroad Company, petitioner herein, has filed a petition with the Commission for an Order to either apportion the cost for the reconstruction of the overhead highway bridge, known by the railroad company as its Bridge 119.63, extending over and above its main track and across its right of way in a north and south direction in the Southwest Quarter of Section 20 in Elkhorn Grove Township, Carroll County, Illinois between Milledgeville and Hazelhurst, the location of the said bridge being shown in red on a certain photostatic print attached to the said petition and made a part thereof, or for authority to abandon same;~~
- (4) that there is a bituminous surfaced road approximately one-fourth of a mile south of the said Bridge 119.63 which, in general, parallels the railroad in this vicinity; that at a point approximately three-fourths of a mile east of the said Bridge 119.63, there is another north and south highway which crosses the main track of the petitioner at grade, the said highway being located on the east line of Section 20 in Elkhorn Grove Township. Approximately one-half mile east of the said grade crossing there is an overhead highway bridge which carries a road leading from the said north and south road lying on the easterly line of the said Section 20 and extending in a southeasterly direction over the said bridge to a point immediately south thereof, from which point it goes in a southerly direction crossing the bituminous surfaced road on State Aid Route 4 and continuing south along the center line of Section 28, all in the said Township; that approximately one and one-fourth miles west of the said Bridge 119.63 there is a subway located along the westerly line of Section 19 in the said Township which carries highway traffic from the south through the said subway; the highway then turns in a northeasterly direction a short distance to a point about one-fourth mile north of the railroad, whence it extends in an easterly direction approximately along the center lines of Sections 19 and 20 in the said Township, all as shown diagrammatically on a certain photostatic white print, admitted in evidence in this case as Petitioner's Exhibit 1;
- (5) that a traffic count made by the petitioner at the site of said Bridge 119.63 showed the following results for twenty-four hour periods:

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Fri., March 2, 1956 12:00 noon to 12:00 mid.
 Sun., March 4, 1956 12:00 mid. to 12:00 noon

18 trucks
 52 automobiles
 11 eastbound trains
 9 westbound trains

Mon., Oct. 8, 1956 12:00 noon to 12:00 mid.
 Wed., Oct. 10, 1956 12:00 mid. to 12:00 noon

18 trucks
 75 automobiles
 1 bus
 2 herds of cows
 11 eastbound trains
 9 westbound trains

that the bus shown on the above traffic check was a school bus but did not contain any children, only a driver and a photographer; that said bus stopped on the bridge and the photographer got out and took pictures of the bridge and bus, including the approaches to the bridge from the north and south sides; that the school buses containing children are not permitted to use the bridge on account of it being posted for a load limit of four tons;

- (6) that approximately three years ago the petitioner made rather extensive repairs to the bridge at a cost of approximately \$2500.00; that the day before the hearing the Master Carpenter of the railroad company made a re-inspection of the bridge and ordered additional repairs to be made in order to maintain it in a safe condition to carry four ton loads;
- (7) that the said bridge (119.63) was built in 1922; that it carries a 16 foot roadway and is approximately 106 feet in length; that the roadway surface over the bridge is planks which rest on wooden stringers which, in turn, rest on caps supported by pile bents; that it would be necessary to spend approximately \$4,000.00 to place the bridge in fairly good condition; that these repairs would only be good for approximately three years; that there is a hump in the center of the bridge which obstructs the views of cars or trucks approaching from the other direction; that a 16 foot roadway over the bridge is too narrow for present-day vehicles to pass in safety;
- (8) that the physical condition of said Bridge 119.63 has reached that stage where it should either be abandoned or rebuilt;
- (9) that the road extending over Bridge 119.63 is a Township road and extends in a southerly direction a distance of approximately three-quarters of a mile, whence it turns in a westerly direction a distance of approximately one-fourth mile, thence continues in a southerly direction a distance of approximately three and one-half miles to a connection with Illinois State Route 88; the said Route 88 at that point turns from the west and extends in a general southerly direction a distance of

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approximately eight miles into the City of Sterling. Sterling has a population of approximately 12,617. Residents living in the vicinity of the territory north of said Bridge 119.63 use the said bridge and highway when going to Sterling or to Rock Falls immediately to the south thereof, or when going to points on the bituminous surfaced road approximately one-fourth mile south of the bridge, which goes in a westerly direction to Milledgeville, a distance of approximately two and one-half miles, and in an easterly direction to Polo, a distance of approximately seven miles. Polo has a population of about 2,242 and Milledgeville a population of about 1,044;

- (10) that the underpass located approximately one and one-quarter miles west of said Bridge 119.63 is a reinforced concrete box structure 18 feet in width and 13 feet in height and was built about 1915; that the bottom of the box structure has been filled in with gravel, reducing the height to approximately 12 feet; that the road to the underpass slopes down towards the structure on both sides; that there is a drainage ditch immediately east of the traveled portion of the highway on the north side of the said underpass which restricts the width of the traveled portion of the roadway at this point, making it difficult for two vehicles to pass safely;
- (11) that public safety, convenience and necessity require the reconstruction of said Bridge 119.63;
- (12) that the reconstructed bridge should have a clear roadway width of at least 20 feet; that the approach grades to the reconstructed structure should be improved;
- (13) that the grade crossing three-fourths of a mile east of said Bridge 119.63 carries a north and south highway which connects the bituminous surfaced road, designated State Aid Route 4 south of the railroad, with an east and west road parallel with and approximately one-quarter of a mile north of the railroad; that there are no houses located on this portion of the road between the said east and west highways; that it would appear that this grade crossing could be abandoned without causing anyone any great inconvenience inasmuch as there is another crossing, namely, the overhead highway Bridge 118.40, about one-half mile east of the said grade crossing and overhead highway Bridge 119.63 three-fourths of a mile to the west of the said grade crossing, all as shown on Petitioner's Exhibit 1, admitted in evidence in this case and as hereinbefore set forth in Finding (4); that since the date of the hearing on October 23, 1956, the Commission received a petition, signed by a number of residents who alleged that they used the said grade crossing and objected to its being closed to public travel;

- (14) that under the circumstances it is fair and reasonable that Elkhorn Grove Township should be given its choice of one of two divisions of cost in connection with the reconstruction of said Bridge 119.63 depending upon the retention of the said grade crossing, namely:
- (a) that if the Township permits the said grade crossing located approximately three-fourths of a mile east of said Bridge 119.63 to be abandoned, then the railroad company should furnish a private crossing for those land owners in that vicinity who own land on either side of the railroad right of way, and the railroad company should reconstruct the said bridge structure (Bridge 119.63) at its entire cost and expense and any earth approaches to same lying within its right of way lines and should also remove the old structure at its entire cost and expense,
- (b) that if Elkhorn Grove Township elects to retain the said grade crossing, the cost of reconstructing the bridge structure proper and any earth approaches lying within the right of way lines of the railroad company should be borne equally between Elkhorn Grove Township and the Chicago, Burlington & Quincy Railroad Company; that the railroad company should remove the old structure at its entire cost and expense;
- (15) that the petitioner estimates the cost for replacing the said bridge structure, carrying a 20 foot roadway, to be \$18,000.00; that the new structure would be longer than the present one, which is approximately 106 feet;
- (16) that upon completion of the overhead highway bridge structure the railroad company should in either case maintain same and also any approaches to it lying within its right of way lines at its entire cost and expense;
- (17) that it is in the interest of public safety for highway travel that the Highway Commissioner of Elkhorn Grove Township, namely, Robert Schryver, or his successor in office, improve the grades of the earth approaches to the bridge structure lying outside the railroad company's right of way lines to provide adequate sight distance for vehicles approaching from the opposite direction.

IT IS THEREFORE ORDERED that the Chicago, Burlington & Quincy Railroad Company is hereby directed to reconstruct the overhead bridge structure, known as Bridge 119.63, located on its line of railroad at a point approximately two and one-half miles east of Milledgeville in the Southwest Quarter of Section 20,

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Elkhorn Grove Township, Carroll County, Illinois, within 270 days from the date of service of a copy of this Order.

IT IS FURTHER ORDERED that the Chicago, Burlington & Quincy Railroad Company shall prepare a detailed estimate of cost, together with a general drawing showing, in plan and elevation, the proposed reconstructed bridge structure upon which said estimate is based, and shall submit same to Robert Schryver, Highway Commissioner of Elkhorn Grove Township, or his successor in office, sending a copy of same to the Secretary of the Illinois Commerce Commission within thirty(30) days from the date of service of this Order.

IT IS FURTHER ORDERED that the said bridge structure shall be designed to meet the requirements of the Bureau of Local Roads and Streets, Division of Highways, Department of Public Works and Buildings, State of Illinois.

IT IS FURTHER ORDERED that if Elkhorn Grove Township desires to maintain the said grade crossing located approximately three-fourths of a mile east of said Bridge 119.63, that Robert Schryver, Highway Commissioner of Elkhorn Grove Township, or his successor in office, shall notify the Chicago, Burlington & Quincy Railroad Company and the Secretary of the Illinois Commerce Commission within ninety (90) days from the date of service of this Order, that he has, or will have, the necessary funds available to bear 50% of the cost of reconstructing said Bridge 119.63, in which case the Chicago, Burlington & Quincy Railroad Company shall keep a detailed record during the period of reconstruction of the actual cost incurred, and that Robert Schryver, Highway Commissioner of Elkhorn Grove Township, or his successor in office, shall reimburse the railroad company upon completion of the structure for 50% of said actual cost.

IT IS FURTHER ORDERED that if Robert Schryver, Highway Commissioner of Elkhorn Grove Township, or his successor in office, fails to notify the Chicago, Burlington & Quincy Railroad Company and the Secretary of the Illinois Commerce Commission

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that he desires the retention of the said grade crossing and is willing to pay 50% of the actual cost of reconstructing said Bridge 119.63 within the said ninety (90) day period, the railroad company is hereby directed to barricade to public use the said grade crossing located about three-fourths of a mile east of said Bridge 119.63 upon completion of the reconstruction of and opening to public use of said Bridge 119.63 and the railroad company shall bear the entire cost of such reconstruction, as set forth in Paragraph (a) of Finding (14).

IT IS FURTHER ORDERED that the Chicago, Burlington & Quincy Railroad Company shall maintain the said Bridge 119.63 upon completion, regardless of whether or not the said grade crossing hereinbefore referred to is abandoned.

IT IS FURTHER ORDERED that the Commission hereby retains jurisdiction of the subject matter of this proceeding to enter such further order, or orders, as, in its opinion, public safety, convenience and necessity may require.

IT IS FURTHER ORDERED that the petitioner, the Chicago, Burlington & Quincy Railroad Company, shall make a report, or reports, in writing, to the Secretary of the Commission of the date upon which the said Bridge 119.63 has been reconstructed and opened to public travel and if the said grade crossing is abandoned, the date of closing of same to public use.

By order of the Commission at Springfield, Illinois, this
5th day of February, 1957.

(Signed) FREDERICK B. RESAG,

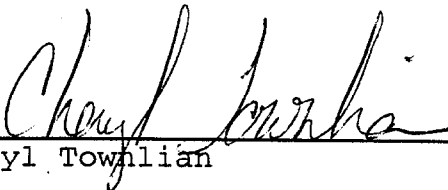
Secretary

(S E A L)


STATE OF MISSOURI)
) SS
COUNTY OF GREEN)

VERIFICATION

CHERYL TOWNLIAN, being duly sworn on oath, deposes and states that she is Manager, Public Projects for The Burlington Northern and Santa Fe Railway Company, Joint Petitioner herein, that she is duly authorized by said railroad company to sign, verify and file the foregoing Joint Petition and that the matter set forth in said Joint Petition are true and correct to the best of her knowledge, information and belief.


Cheryl Townlian

Subscribed to and sworn to
before me this 28
day of JULY, 2000


Notary Public
J. ALLEN KUHN
Notary Public - State of Missouri
County of Greene
My Commission Expires Feb. 24, 2002

STATE OF ILLINOIS)
) SS
COUNTY OF CARROLL)

VERIFICATION

I, Keith E. Oncken, being duly sworn
on oath, deposes and states that he/she is Township Supervisor of
Elkhorn Grove Township, Carroll County, Illinois, joint petitioner
herein; that he/she is duly authorized by said township to sign,
verify and file the foregoing Joint Petition and that the matter
set forth in said Joint Petition are true and correct to the best
of his/her knowledge, information and belief.

Keith E. Oncken

Subscribed to and sworn to
before me this 14th
day of August, 2000

Janet L. Hockman
Notary Public



STATE OF ILLINOIS)
) SS
COUNTY OF CARROLL)

VERIFICATION

I, Ivan F. Miller, being duly sworn
on oath, deposes and states that he is Commissioner for Elkhorn
Grove Road District, joint petitioner herein; that he is duly
authorized by said township to sign, verify and file the foregoing
Joint Petition and that the matters set forth in said Joint
Petition are true and correct to the best of his knowledge,
information and belief.

Ivan F. Miller

Subscribed to and sworn to
before me this 14th
day of August, 2000

Janet L. Hockman
Notary Public



PROOF OF SERVICE

Michael L. Sazdanoff, an attorney, deposes and says that on the 1st day of September, 2000, he caused to be served, a true and correct copy of JOINT PETITION upon:

Mr. James C. Slifer
Director, Division of Highways
Illinois Department of Transportation
2300 S. Dirksen Parkway
Rm. 300, Administration Building
Springfield, Illinois 62764

Mr. William Sunley
Director of Local Roads and Streets
Illinois Department of Transportation
2300 S. Dirksen Parkway
Springfield, IL 62764

by depositing same in the U.S. Mail depository located at Adams and Clinton Streets, Chicago, Illinois in an envelope(s) with first-class postage, prepaid.

